

QUID NOVI

Journal des étudiant-e-s
en droit de l'université McGill

McGill Law's
Weekly Student Newspaper

Volume 32, n°8
16 novembre 2010 | November 16th 2010

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16 novembre 2010 | November 16th 2010

QUID NOVI

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WANT TO TALK? TU VEUX T'EXPRIMER?

Envoyez vos commentaires ou articles avant
jeudi 17h à l'adresse : quid.law@mcgill.ca

Toute contribution doit indiquer le nom de
l'auteur, son année d'étude ainsi qu'un titre
pour l'article. L'article ne sera publiée qu'à la
discrétion du comité de rédaction, qui

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rédaction.

Contributions should preferably be submitted as
a .doc attachment (and not, for instance, a
".docx").

Co-Editor-in-Chief

COURTNEY
RETTÉ

Thinking About Failing: An Attempt to Answer the Uncomfortable Question of What Happens to Law Graduates Who Fail the Bar Exam?

Meena Khan is unquestionably a cause célèbre among future and present Barreau-goers in Quebec. If you have never heard of Meena Khan—shame on you! For those of you out of the loop, I will happily take this opportunity to briefly recite the facts of *Khan c. Barreau (Quebec)*. In 2006, Ms. Khan sued the Barreau after the Barreau refused to return her corrected exam—which she failed—and provide her with the English correction grid. While the director of the exam centre met with Ms. Khan, Ms. Khan was not permitted to take notes during the meeting nor was she allowed to bring a lawyer specializing in labour law—the section of the exam in which she received the lowest score. In addition to arguing that this practice was unfair to Anglophone students, Ms. Khan asserted that students could not be convinced that corrections made to their exams were valid if the Barreau refused to be transparent with respect to their evaluation procedures. Furthermore, Ms. Khan claimed that the Barreau's method was structured to reduce the number of lawyers entering the legal profession in Quebec and to artificially raise legal fees for clients. Embarrassingly, Superior Court Judge, Jeannine Rousseau, agreed with Ms. Khan, ruling that the Barreau's decision was unjust and motivated by financial, rather than educational, considerations.

The Barreau is presently asking the Court of Appeal to overturn the Superior Court's decision on the ground that Barreau students do not have a legal right to the answers in English nor to their corrected exams. In addition, the Barreau is arguing that Rousseau's finding is incongruent with the legal tradition of not interfer-

ing in the academic sphere of educational institutions, and that Quebec's access-to-information laws permit public organizations to keep certain documents confidential. In the meantime, however, Ms. Khan has passed the supplemental final Barreau exam and is now a licensed lawyer in the province.

What happens, however, to law graduates who don't pass the Bar exam—as in EVER? What do they do after law school? Are their career prospects actually dimmer for having gone to law school in the first place? Jane Yakowitz answers some of these questions in her recently published study on what she calls the “first serious attempt to understand the impact of failing the bar exam.”¹ While her study focuses on American law graduates, Yakowitz's findings can easily be transferred and are likely similar to the experience of law graduates in Canada.

First of all, it is worth getting acquainted with Yakowitz's nomenclature:

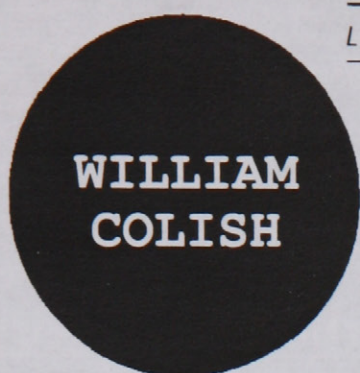
First-time passers are law school graduates who pass the bar on their first try.

Eventual-passers are law school graduates who fail their first bar exam but pass on a subsequent attempt.

Never-passers are law school graduates who never successfully pass an examination because they fail every bar exam taken or because they never try again.

And yes, Yakowitz does indeed acknowledge that not every law graduate writes a bar or even intends to work, in some capacity, in the legal occupational realm

(Continued on page 18...)



Straight Shooting: "Professionalism" Should Be No Lawyer's Concern

Before long, talk of professionalism starts ringing the bells of social conformity and class division.

The Career Development Office recently gave a presentation to the 2nd year Legal Ethics class on professionalism. The objective of this presentation, as with many others that students receive in this faculty, was to acculturate budding lawyers to the expectations of the professional milieu that they will soon inhabit. Without doubt, it was worth underlining that firms lose interest in candidates whose follies headline the FAILBlog. It is not clear, however, that talk of professionalism gives helpful guidance on how lawyers should behave and the responsibility they bear.

"Professionalism", like most "isms," is a muddling term. As demonstrated in the CDO's presentation, "professionalism" usually serves as shorthand for other laudable virtues. One says of someone who is professional that she is diligent, conscientious, honest, loyal and fair-minded, among other things. As a catch-all, "professionalism" is a harmless way of reminding lawyers (and other professionals) of the ethical standards to which they are held. It does not take long, however, before the high-minded discussion of virtue ethics descends into the base concern with dress, comportment and lifestyle -- remainder qualities of professionalism that are only elevated to the status of virtues with Sisyphean difficulty. Before long, talk of professionalism starts ringing the bells of social conformity and class division.

These remainder qualities of professionalism meld nicely with the nature of elite social classes; the same is not true of the primary virtues of professionalism. Professionals dress well and act properly. They maintain upstanding lifestyles and are well cultured. Many of these remainder qualities are supported by wealth and end up further distinguishing those who represent from the unsophisticated and uncouth who require representation in a complex system of justice. To be diligent, loyal or honest is generally difficult; money does not usually make it any easier. To be virtuous is to do other than what is in our nature, to cut against the grain and often sacrifice one's own interests for the benefit of another. Le code de déontologie des avocats guides lawyers to resist their impulses of self-interest; that is, it is a guide to forestall what would otherwise result from self-interested behaviour. "Ontology" is the study of what "is", where "de-ontology" is the study of how humans unmake what is (in their nature).

Just as "professionalism" reveals itself to be double-faced, the elite nature of modern professionals stems from two distinct sources. Professionals are elite because they form a significant portion of the upper class. They earn high wages and

live lavishly. They are able to command impressive salaries because their skills and knowledge are rare, both of which require time and money invested in extensive training. Setting aside their ability to luxuriate in the upper echelons of modern living, professionals are elite for other, longstanding reasons that also support the idea that they be self-regulating.

Dissecting "professionalism" helps infuse some light into this otherwise shadowy notion. Its etymological root is *fabula*, whence *fable* (to speak of the uncertain or imagined). *Pro-* (before in time) makes reference to those who speak before the others. A professional has licence to make claims that others cannot, or at least not until those claims have been made by a professional. Because their knowledge is rare, they are granted self-regulating powers. The wealth they can accumulate is incidental to the supply of knowledge they hold relative to others. It is the nature of the claims that they can make that warrants them the title "professional".

This etymological detour underscores the responsibility that professionals bear and the means by which that responsibility is borne. Most professional orders require that their members take an oath. Solemn occasions of ceremony mark one's entry into a profession, not the purchase of some fitted Italian cloth. These occasions provide moments of reflection on how newly admitted professionals will render service to others without their training. Beyond the ceremonies, professional codes of conduct help support the burden of responsibility that members of professional societies shoulder, and often with great difficulty. Nowhere in *Le code de déontologie des avocats* do you find the word "professionalisme". The Code speaks in direct terms of a lawyer's duty to execute her tasks with "dignity, honour, respect [...] and courtesy."

While brevity is commendable in most forms of communication, it comes with a cost. If "professionalism" is shorthand for a collection of virtues that we do not take the time to speak or write, then one can only wonder to what extent it is also shorthand for a collection of virtues that we do not take the time to reflect on and consider. What's worse, to unwitting authors and audiences, this shorthand smuggles in divisions of class that can impact on who one chooses to represent and the kind of law they will practice. It is likely easier to represent someone to whom you can relate, who is of your class, than it is to represent someone whose interests, manners and dress serve as obstacles to a relationship of genuine concern. If we want to talk about respect and honesty, then let's honestly examine what professionalism really means, or at least ought to.

LAW SCHOOL ROCK of Thursday November 25th



Club

L
A
M
B
I



CLUB LAMBI
4465 Blvd St Laurent
(coin Mont Royal)

7\$ presale / 10\$ at door

ouverture des portes: 19h30
show starts at 8:00pm

lawschoolofrock@yahoo.com

**CHARLIE
FELDMAN**

JD-LLB: What's up!?

Disclaimer: Although I write as a member of LSA Council, the views in this article do not necessarily reflect those of the LSA Council or any other Council member.

Should we switch our LLB to a JD? This perennial question is again being addressed by the LSA, and now it's your turn to get involved!

Le 13 octobre 2010, une résolution fut passée par le Conseil de l'AÉD concernant la création d'un comité pour étudier les divers aspects reliés au changement du nom du programme.

A call for applications went out once, twice.... and now we're extending the deadline, again. For all the talk in the Faculty of any degree name change, it's quite surprising (to me, at least) that we have to extend this deadline again due to lack of interest. Of all the issues people have discussed with me as Class President over the past three years, this is the issue raised most often (well, perhaps after grades). Yet, when it comes time to act, it seems few want to get involved.

I get it – we're all busy, exam season is just around the corner – you may be interested but not have enough time to serve. The thing is, we need people to devote time to the issue if anything is going to happen. Regrettably, no progress was made on this issue last year due to internal LSA bickering (to put it mildly). The longer things take to get off the ground now, the more we risk a repeat and this issue being punted to next year's LSA.

If you have any interest (and some time), I strongly encourage you to apply for the Committee. Its task is primarily research-related – essentially, the Committee will take the report completed two years ago and update it. Further, and what's new, the Committee will make a recommenda-

tion to LSA Council as how to proceed. The current deadline for the report is set for February 28th, 2011, though the Committee may request an extension.

Les étudiants qui désirent être membre du comité doivent envoyer une lettre d'intention expliquant leurs divers intérêts et qualifications dans ce comité. La lettre doit être adressée à Farah Goulamhousen et envoyée: vp-admin.lsa@mail.mcgill.ca.

In closing, I'd like to present you with what I've been asked most often re JD-LLB and my responses.

Why is there any talk of a degree change at all?

At the risk of over-simplifying things, the J.D. is the American version of our LL.B. Some schools in Canada have switched to a J.D., which is believed by some to be more recognized and understood than our LL.B.

Aren't there requirements for a program to call itself a J.D.?

In the US, the American Bar Association 'approves' law schools offering the J.D. Requirements for such 'approval' demand that admission be granted only to students with an undergraduate degree and an LSAT score. Further, there are course requirements, such as taking U.S. Constitutional Law to graduate.

In Canada, there is no regulatory body that serves the ABA's function as regards to law schools. The ABA does not currently approve any schools outside the U.S., nor would it make sense for us to

seek the ABA's approval. We don't require the LSAT or an undergraduate degree for admission – nor should we – and while U.S. Constitutional is a fun class, there is no point to making all you Canadians take it :-)

Long story short: In Canada, it's essentially just a name change. We could, in theory, call the degree M.D. if we wanted.

Isn't it true that even if we all voted to change the degree it might not happen?

Yes. There are many steps in the process, and it is possible that it may, in the end, go nowhere. The point is that if we want any change to happen (and perhaps we don't, I realize this is a divisive issue) we have to start somewhere. Our starting point is a report, which, once presented to LSA Council and students, provides us with the lay of the land. It would answer some of the questions students have while allowing for informed debate. It would also help guide whether or not any question should be posed in a student referendum, and, if so, what the wording of such a question might be.

What would this report look like and why is it so important?

The report – in my view (and without attempting to shape its contents) – would tell us what other schools in Canada have done on this issue and how they got there. It would tell us whether such switches have amounted to anything. It would tell us what considerations to keep in mind. It would also – unlike the report of two years ago (which is great in terms of the base it provides) – tell us what we should do next.

The report may conclude that we should drop the issue. It may conclude that we have a vote that includes professors as well as students. It may decide that the proper approach is to do a wide-scale survey of alumni for their thoughts.

Would the J.D. be for everyone?

This is up to the Committee to decide. It could choose to propose a system whereby graduates could pay a small fee to have their conferred LLB degree 'converted' to a J.D. It may conclude that the J.D. is what should be conferred upon eve-

ryone. Of course, it may equally decide this is all a terrible idea and the status quo should be maintained.

Who will be on the Committee?

Well, the motion says we need five people – and that we want balance of positions (i.e. two for, two against, one neutral) going in. But, there will be no committee if no more volunteers come forward, so, the ball's in your court!

What else should I know?

Anyone can be involved in the process. 1Ls – you can serve on this committee and probably should most, since you can see this issue through over the course of your studies here. While I can't say what process the committee will use, odds are there'll be some space for people to make submissions, so keep an eye out for updates from the Committee, assuming it gets off the ground.

In closing, think about volunteering for this Committee. Or, if you're in 3L or 4L, let me know and I can find a Graduation Committee task for you!! :-)

LSA Cultural Food Outings!

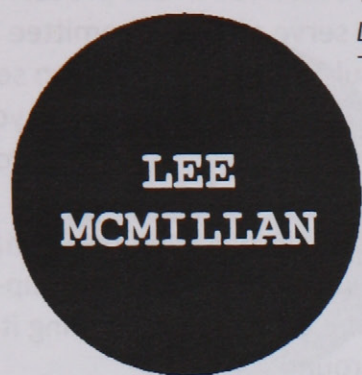
The next cultural foodie outing will be at Tong Sing Restaurant on Saturday Nov 27th at 11:30 am. The last event was a great success at Restaurant La Selva (Peruvian food). Thank you to Tanya De Mello for organizing the events. Bon appétit!

Please RSVP to Tanya De Mello at tanya.demello@mail.mcgill.ca as places are limited.

42 Rue de la Gauchetieree - RESTAURANT TONG SING

Dim Sum
\$12-15





Law I

Finding Light in Darkness

On November 11th of each year I seem to tread through the day with an eerie, unfamiliar sensation whirling in the pit of my stomach. The feeling is not simply 'sad', but is rather a mixture of emotions, and has its source in people like Robert Graves, Wilfred Sassoon, Erich Remarque, Timothy Findley, Virginia Woolf, or anybody else's life through which I might have come to relive personal experiences of the Great War. To remember (re- "again" + memorari "be mindful of") the war is inextricably bound to the passions, emotions and intellects of the individuals who experienced it firsthand.

To these authors, the process of post-war bereavement (if they survived that long) was not exactly an emotionally charged or cathartic one. To the contrary, their experiences were those of disillusionment, defamiliarity, and unfeelingness. To them, those things that once inspired one feeling may now provoke another. The consequence is a mental state that is more sedative than it is vehement, at least until the hearts can decide which particular forms of meaning to latch onto. The First World War was a watershed moment in history in that it challenged the West to think critically about itself in the face of its own uncertainty.

What happens to a brave, young soldier when, charging into war with notions of bravery, courage, and chivalry fresh in his mind, is met with the constant sight of a trench wall; the deafening din of heavy artillery fire; the wet, cold feeling of mud against his body; and the rancid, putrefying scent of dead corpses? How should a liberal react when he sees all the fruits of his labour - the industry and technology that he was told would progress Man into its inevitable state of bliss - transforming the world around him into hell on earth? That which is worse than pain, suffering or any other negative sensation is the total suspension of sensation altogether, the kind that accompanies a soul whose understanding of the world is no longer reflected back to him by the world itself.

Without trivializing post-war remembrance, perhaps an analogous understanding of it can help law students learn something about their own post-enrolment copings. For many 1Ls it feels as if a massive weight has dropped down on our shoulders, be it because of readings, time-management issues, or stress in general. For others, their actual image of the law as an authoritative, neutral reflection of the principle of justice has been challenged. Decisions seem inconsistent, judges seem agenda-driven (i.e. Laskin vs. Beetz in federalism), and substantive justice seems

lacking. Further, the relationship between the day-to-day goings-ons of law school on the one hand, and long term career goals on the other, is not always clear. Heading into late November, it is easy to feel stale and unmotivated about law school, and disillusioned about what we are in fact putting ourselves through and why.

Smart people in the 1920s were feeling similar, albeit probably deeper sensations with respect to their own lives and environments. We are asking the same sorts of questions as them: how do we go about our lives in a meaningful way when so much of what is around us seems so alien. Some of these people, like Siegfried Sassoon, succumbed to the pressures of the war in a big way and found themselves in insane asylums, at least temporarily. But before any of us fall into despair over the risk of 'losing our marbles' mid-term, remember that Sassoon wrote some of his best poetry locked up in an asylum, and yes, eventually found himself back on his feet. Stress and confusion are signs that you are pushing the mental limits of your brain. It is a sign of transformation that is likely going to resurface as a tangible skill set. You will most likely surprise yourself with it later on, much like the surprise that Mr. Sassoon must have felt rereading his poetry.

Virginia Woolf's character Lily Briscoe in *To The Lighthouse* channeled the same sense of confusion with the world around her into her artwork. In fact, she takes several years to complete a single painting that was haunted by a minor issue of form. Ultimately the painting becomes a perfect expression of the woman's self-fulfillment. It is the war itself, with all it did to shatter the imposing illusions of a Victorian worldview, which caused Lily to realize that she was never quite comfortable in that worldview to begin with. Some of you might have ideals that seem at odds with what the practice of law seems to represent, but by submerging yourself in something foreign you are both qualifying that ideal and equipping yourself to bring it about. If your ideal is to change the world, view the world as your painting. Allow the next four years to leave you in a position to help perfect that painting, just like the years of 1914-1918 allowed Lily to perfect hers.

But what about those who suffer in silence, like the poet Robert Graves? While the rest of his fellow officers were drinking heavily or visiting brothels, Graves was careful to avoid life's crutches. This lack of indulgence might have appeared as a lack of zest on



When is my Grad Ball? Quand devrais-je faire prendre mes photos?

For the Graduation Committee, 3, 3.5, and 4 are our favourite numbers! That said, we like each for a different reason, as they mean different things for both Grad Ball and grad photos. Please note that the Grad Ball we'll be referring to is the one being planned for March 2011.

NOT GRADUATING AT ANY POINT IN 2011 OR 2012?

No need to keep reading! Go do something else, like, umm, read your Civil Code!

GRADUATING THIS DECEMBER?

Congrats! Though you may already have celebrated with friends at last year's ball, you're still more than welcome to attend this year's ball! You've likely already had your photos taken but if not, you have until the end of December.

GRADUATING NEXT MAY AND NOT CURRENTLY ON EXCHANGE?

This is your Grad Ball AND this is the time to take your photos! You have until the end of December ONLY to have your pictures taken. Veuillez appeler HF Photo au 514-499-9999 pour prendre rendez-vous avec eux. Le coût est de 55\$ (taxes incluses). This price includes both the sitting fee and the composite fee for the Mosaic. HF Photo est situé au 2015 rue Drummond, Suite 600 (à côté du restaurant MBurger).

GRADUATING NEXT MAY BUT CURRENTLY ON EXCHANGE?

This is your Grad Ball and you need to have your photos taken once you're back in Canada (if you haven't already done so). Luckily, the lovely HF Photo people are giving you until January 15th to visit them. This is a firm deadline!

GRADUATING IN DECEMBER 2011 AND NOT PLANNING AN EXCHANGE FOR NEXT FALL?

This IS your Grad Ball, but you can wait until next fall to have your photos taken. You'll be included in the photo mosaic of the 2012 May graduates but there's no need to delay the celebrations until 2012. The 2011 Grad Ball wouldn't be the same without you!

GRADUATING IN DECEMBER 2011 BUT PLANNING AN EXCHANGE FOR NEXT FALL?

This is your Grad Ball, and you should get your photo taken during this academic year.

GRADUATING IN MAY 2012?

Though you might be in a more celebratory mood when the 2012 Grad Ball rolls around, you are still more than welcome to join us for the 2011 edition! As for pictures, you'll have them taken next fall or winter. Don't forget to keep potential exchange plans in mind.

WANT TO HELP PLAN THE GRAD BALL?

Great, we'd love to have you on board.

HAVE AN IDEA FOR THE CLASS GIFT?

We're all ears.

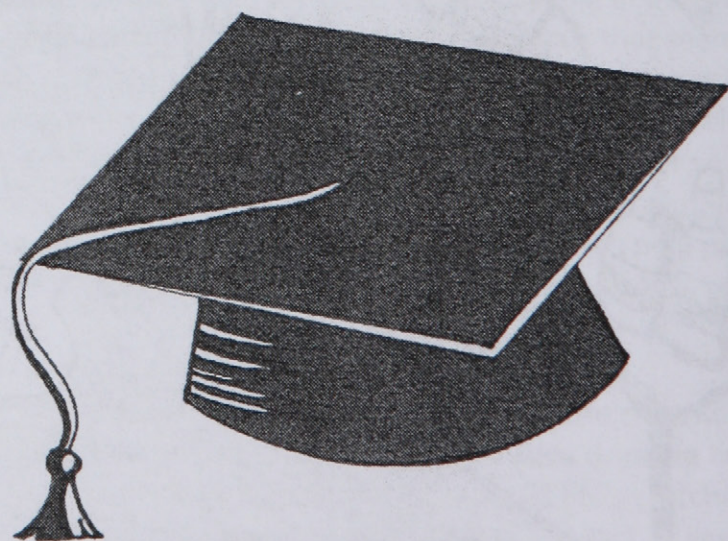
ANY QUESTIONS OR CONCERNS?

See Charlie, Firas, Tim or Viviane. Please note: you will get to vote (as per By-Law) on the final selection of the class gift, but we want to hear your suggestions and opinions whenever you feel like sharing them.

Merci bien, Comité de Graduation

"It is clear the future holds great opportunities. It also holds pitfalls. The trick will be to avoid the pitfalls, seize the opportunities, and get back home by six o'clock."

-Woody Allen



GRADUATION

Visit the SAO web site to view important information regarding graduation and completion of degree requirements:
<http://www.mcgill.ca/law-studies/policies/graduation/>

Deadline to apply to graduate on Minerva for all Undergraduate students and Graduate students in all non-thesis programs (certificates, master's non-thesis):

- Students who intend to graduate at the end of the Fall 2010 term (courses completed by December for February granting of degrees (may attend June 2011 convocation) must apply on Minerva by December 1, 2010.
- Students who intend to graduate at

the end of the Winter 2011 term (courses completed by April for June 2011 convocation) must apply on Minerva by March 2, 2011.

- Students who intend to graduate at the end of the Summer 2011 term (courses completed by August for October 2011 convocation) must apply on Minerva by March 28, 2011.

Undergraduate students are encouraged to complete the Degree Audit Form (program requirement check list) in order to verify all degree requirements will be met. The completed form may be submitted to the SAO for verification as well. Please allow a minimum of 5 working days for processing.

For UNDERGRADUATE STUDENTS on Exchange:

Undergraduate students on Exchange expecting to graduate at the end of this winter term must email Kelly.Cassidy@mcgill.ca in order to have the expected graduation designation added to their record. Students away on Exchange are blocked from this function.

For information on the convocation ceremony go to: <http://www.mcgill.ca/convocations/>

All enquiries may be sent to info.law@mcgill.ca

SKIT NITE 2011 IS COMING!!!

The biggest and best night of law school is on the horizon - Skit Nite 2011!!

What is Skit Nite? Think law school meets Saturday Night Live - it's a collection of hilarious skits and videos featuring your fellow law students! AND, there may even be some profs on stage poking fun at what happens here at NCDH!

Here you'll find it all - impressions of profs, law jokes, promissory estoppel... well, not so much that last one, but you will get to hear the Skit Nite Band (they're awesome). Oh, and the skits are all LIVE, so ANYTHING CAN HAPPEN!! It promises to be a great evening!

If you want to see examples of what has happened in previous years, type "Skit Nite McGill" into YouTube. There you'll

find Profs. Janda, Jukier, Van Praagh, and Dean Lametti singing (no, not all together - that's this year's goal!). You'll also find a hilarious sketch about a day in the life of Lord Denning. For most of last year's show, you can find links on my Facebook (if you hunt for it!).

Si vous avez des idées de sketches ou de vidéos, envoyez un courriel: charles.feldman@mail.mcgill.ca. Si vous voulez être dans un sketch, contactez-moi et on vous trouvera un ou plusieurs partenaires qui cherchent des comédiens.

Skit Nite will be held during the third week of March 2011 - the exact details will be published shortly. Don't worry, 1Ls, it's after the Memo is due, and 2Ls - it's wayyyy after the Factum's done!

Comme chaque année, les profits de Skit Nite iront à quatre organisations caritatives: Chez Doris, Dans la Rue, Share the Warmth et Mission Old Brewery. Alors, participez ou assistez au Skit Nite - c'est pour une belle cause !

We also will need some volunteers for Skit Nite (helping to sell tickets, make the program, do sound and a/v work) so let me know if you're interested!

On a vraiment besoin de vous pour faire rigoler tout le monde.

Here's to the funny, and we hope to see you in March! If you attend one awesome event this year, make it Skit Nite!!!

-The Skit Nite and Law School of Rock Committee

To all event planners!

The Green Committee has been striving to make our faculty more sustainable. We have been carefully reviewing our options to achieve our objectives and some of our ideas include composting and procuring our own reusable cups and plates for events within the faculty. As always, we welcome and encourage any of your suggestions. Currently, we would like to provide you with the following list of green caterers for all events (such as coffeehouse) that you may be organizing within the faculty or elsewhere:

Nom	Leur côté vert selon www.evenementecore-sponsable.com	Exemples tirés du menu	Prix	Coordonnées
Apollo Globe Traiteur	Aliments locaux et biologiques; compostage	Tomate confite à la vanille de Tahiti, Tartare de bison, huile de tangerine et gremolata, Crêpes fines de riz, farce de crevette à la menthe vietnamienne	Non indiqué	http://www.apolloglobe.com/?gclid=CJXht5bZ5Z8CM5QodBCLYHg Traiteur@apolloglobe.ca T: 514.274-0153
Crudessence	Aliments locaux et biologiques; compostage	Champignons marinés farcis à la terrine de Grenoble et coriandre, Basilic et noix de pin au cœur d'une tomate cerise uniquement en saison, Minis rouleaux printaniers garnis d'humus Soleil et légumes saisonniers	20\$ la douzaine	http://www.crudessence.com/ 514.510.9299 info@crudessence.com
Maître et Chef	Aliments locaux et biologiques; compostage	Crabe des neiges, Mousseline d'asperges vertes à l'orange Crème infusée au gingembre	Ils ont les grands bureaux comme clients	http://www.maitre-et-chef.com/ (514) 938-9398
Francis Beaulieu Traiteurs	Aliments locaux et biologiques	Roulé de courgette verte et chèvre au poivre rose, bouton d'énoki et pois vert, Crevette et basilic enroulé de prosciutto, Mini-galantine de volaille roulée aux atomes,	10 canapés/pers., à partir de \$13,95/pers., min. 20 pers.	http://www.francis-beaulieutraiteur.com/fr/ 514 727-0111
Cornellier Traiteur	Aliments locaux et biologiques	Barquette d'endives au poivre rose, chèvre et pacanes grillées, Baluchon d'escargots et champignons King parfumés au thym et chocolat, Tarte fine poire et foie gras	35 \$/pers. Min 15 convives Boissons, matériel, personnel et livraison en sus	http://www.cornelliertraiteur.com/ 514-272-8428

By using a green caterer, you are helping the environment and reducing our footprint on the environment!

For ideas and suggestions on how to make our faculty greener, please email damian.marczuk@mail.mcgill.ca.



Criminal Law McGill/ Droit Criminel McGill

On Tuesday November 2nd, from 6 to 8pm, the Atrium was animated by the presence of approximately 30 students, 2 judges of the Cour du Quebec, 5 Crown attorneys, 2 defense lawyers working at legal aid, and 3 private practice defense lawyers. All of these wonderful people were brought together to attend the first edition of the Criminal Law McGill 6 to 8 Speed-Meet Event. The '6 to 8 speed-meet' event's goals were to offer a networking opportunity for McGill students interested in criminal law, as well as a chance for them to ask questions about the specific experiences of various criminal law practitioners in an accessible environment; we are happy to report that it successfully achieved these goals. The feedback I have received following the event was overwhelmingly positive. Moreover, despite the fact that two other events were taking place at the same time, the turnout was great. This clearly shows the interest for criminal law in this Faculty and the need for more events like this.

Le déroulement de l'activité était comme suit. Les premières 30 minutes il y avait un vin et fromage, ce qui a permis aux invités d'arriver sur les lieux, de manger un peu et de discuter entre eux. La portion "speed-meet" de la soirée a commencé à 18h30 et les étudiants étaient à ce moment assis en petits groupes autour de huit tables regroupant un ou deux invités, et devaient changer de table à chaque 8-10 minutes. Pendant ce temps les invités étaient prêts à partager leurs anecdotes et conseils et, surtout, à répondre à des

questions sur leur carrière de la part des étudiants. Les conversations ont été des plus fructueuses et plusieurs personnes, invités comme étudiants, sont restés après la fin de l'événement.

Le succès de cet événement est dû selon moi à deux facteurs :

1-La vitalité et la générosité de la communauté que forment les avocats et les juges de droit criminel à Montréal. Ceux-ci se montrent toujours très accessibles et généreux de leur temps, et démontrent une passion pour leur travail qui est fort inspirant.

2-L'intérêt d'un grand nombre d'étudiants de McGill envers le droit criminel. Sur ce sujet, j'aimerais faire un lien avec quelque chose que le Doyen Daniel Jutras a dit dans ses commentaires d'ouverture à la soirée. Il a noté le fait que certains cours en droit criminel, comme le cours de Sentencing, ne soient pas offerts tous les ans est dû au manque de demande de la part des étudiants. Personnellement cela m'a surpris puisque je n'ai aucun doute que plusieurs de mes collègues seraient intéressés à avoir plus de choix de cours en droit criminel. Par contre, la voix d'une étudiante n'est pas suffisante pour démontrer qu'il y a un intérêt et une demande réelle à la faculté. J'invite donc tous les étudiants de la faculté qui ont un intérêt pour le droit criminel d'en faire part à la faculté, que ce soit en personne, par lettre, ou à travers le Quid.

**Thank you to all the guests who came:
The Honorable Lori Weitzman, The Honorable Patrick Healy, Me Cynthia**

Gyenizse, Me Delphine Mauger, Me Suzanne Costom, Me Robert Israel, Me Flavia K. Longo, Me Isabelle Haché, Me Annabelle Sheppard, Me Nathalie Pépin, Me Nathalie Gauthier and Me Dennis Galiatsatos. Thank you as well to Dean Jutras who came and said a few opening remarks.

Participant testimonials:

The Speed Meet allowed me the privilege of meeting a wide variety of highly dedicated and deeply passionate criminal law practitioners. I can think of no better way of gaining useful insight into so many facets of the criminal law in practice in so little time.

Thanks so much for organizing the event!
- David

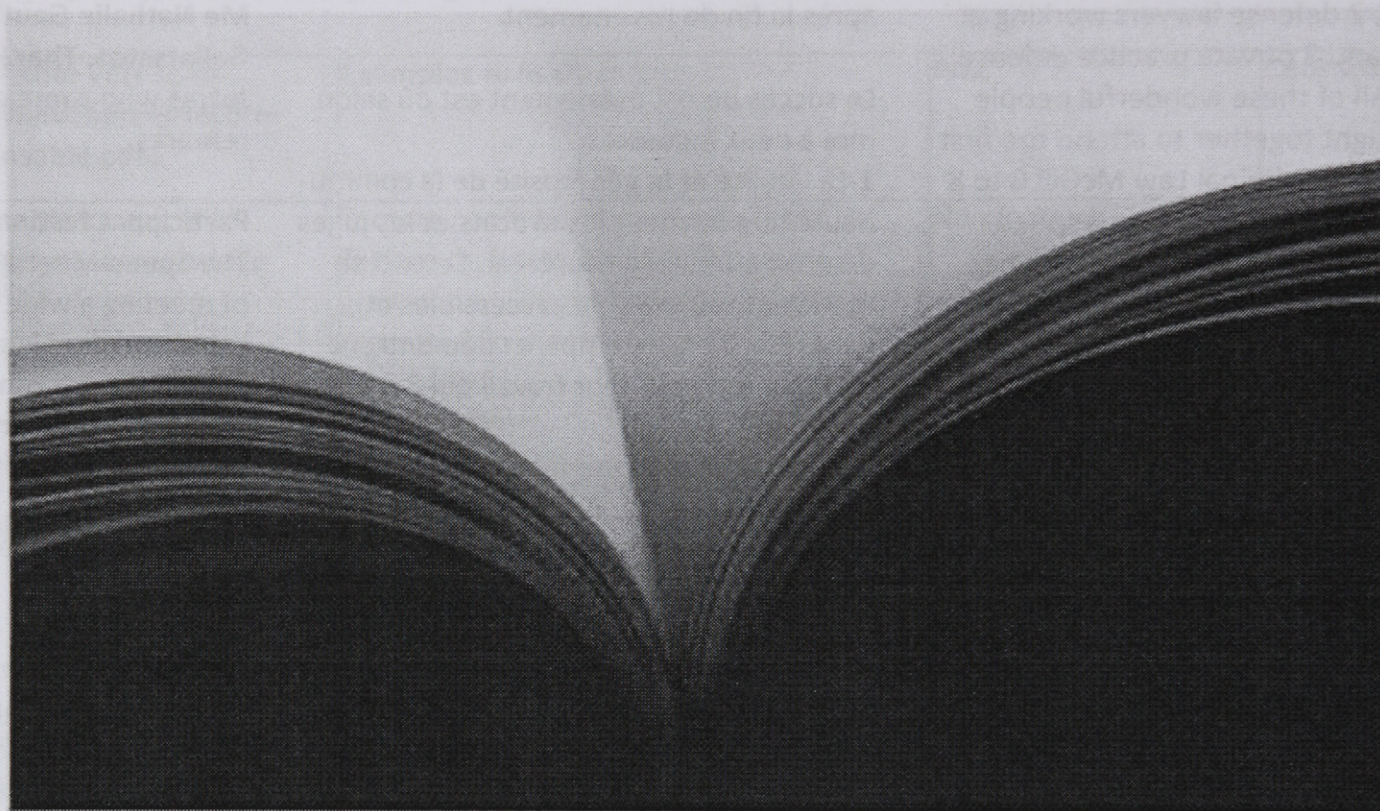
It was a novel event that was well organized. I hope that other clubs in different areas of law consider this speed-meet approach. From the white-collar defense to the defense of the lower-rungs of society, to the Crown prosecutors and the judges who ruled, I was highly impressed with the variety of people we spoke with. All had such interesting stories to tell. All were friendly and honest. All certainly sparked an interest for me in criminal law.
- Ke-Jia Chong, 1L

Thank you Joannie and Mike!!! You have made careers in criminal law more accessible and realistic for your colleagues and I know many of us are very grateful for all your hard work and willingness to do for others.

- Anonymous

Criminal Law McGill is a new student group dedicated to promoting and engaging student interest in criminal law, and to increase contact between McGill law students and local criminal practitioners. If you are interested by our events, write us a email to join our mailing list: clm.dcm@gmail.com

The annual Dirty Minds Trivia



max

November 17th, Thomson House



@ 7pm in the ballroom

Enjoy a kinky Faculty Tradition!

* snacks will be served*

THE CHICKEN

Please note: the following short story is written by a 1L who prefers to submit his work under the pseudonym of "Cousteau Libman".

The telephone rang. I picked it up. A shiver rushed down my spine. I knew it was the Commandant. "Hello Commandant," I said. My voice bounced off the far wall, and echoed in my ears. I was so caught up in my thoughts that I mistook it for the voice of another, and gasped. "Why did you just gasp?" the Commandant asked coolly. "Because I mistook my voice for the voice of another," I responded. I couldn't lie to the Commandant. I had attempted it in the past – had attempted it once in Vienna – and he had recognized it at once for what it was: a big fat lie! He could see right through me. I was a piece of tissue paper.

"Are you ready?" The Commandant asked. He was always direct.

"Of course," I responded. But I wasn't – wasn't in the least bit ready. "Spice the chicken!" he cried, "and then place it in the oven." And then the phone went dead. I looked across the barren room at the oven located at its opposite end. It was a menacing silver machine, and it gleamed in the sparse light.

The chicken! That fat vile bird! It was sitting on top of the oven. I shuddered again. How could I spice such a filthy carcass? I would have to rub spice all over its body. I would have to stick my hand through the hole that had once contained its head. I would have to inject it with gravy!

The phone rang again. I picked it up. "Have you spiced it?" the Commandant asked sternly.

"I am in the process of spicing it, Commandant," I responded.

"Liar!" he shouted. "It's sitting on top of the oven!"

"I am sorry, Commandant," I responded. "I am in the process of preparing myself mentally."

"You have five minutes. Don't make me call you back."

His voice triggered a primal, visceral fear. I entered a sort of autopilot, and without even willing my body to move, I floated across the room towards the chicken. The carcass grew larger as I made my approach. The chicken grew in size. It grew and grew and grew until it dwarfed my own body. It was massive. As I drew closer I noticed a set of steps that had been obscured by the distance. They led up the front of the oven to the chicken.

The phone rang. I picked it up.

"Walk up the steps!" the Commandant shouted.

I walked up the steps. When I arrived at the top, I stood face to

face with the chicken. It was tens times larger than my body. The hole that had contained its head was as large as a massive door. The stench was astonishing. It was unbelievably foul. It was the stench of salmonella. It was the horrible stench of death.

The phone rang. I picked it up.

"Enter the chicken!" The Commandant roared.

My body refused to move. I turned around and looked behind me. The oven was more than a hundred feet off the ground.

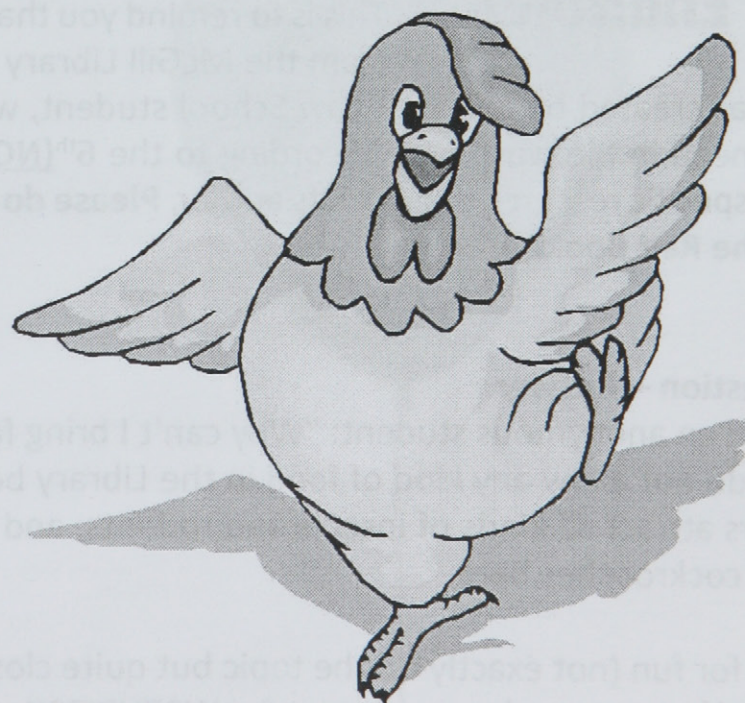
"I can't Commandant!" I wailed. "I can't enter it. It's too horrible!"

"Hundred's of others have done it before you!"

"I can't die this way, Commandant! I'll die in the chicken!"

"Everyone dies, Cousteau!" the Commandant screamed. "Fulfill your mission. Spice the Chicken!"

"I can't!" I screamed. And I couldn't. And I knew that I couldn't – that I didn't have what it took. And I felt an awful aching shame in the pit of my stomach – a violent painful shame that I couldn't tolerate or bear. I had failed, and failed horribly, and I knew it in my heart. And what I wanted more than anything was for the pain to come to an end. So I hung up the phone, and launched myself off the oven, and plummeted to my death.





NEWS FROM YOUR LIBRARY

Interested in arbitration? Take a look at the ICC Dispute Resolution Library

As of the last week, the Law Library provides access to the ICC Dispute Resolution Library, an online service offered by the ICC International Court of Arbitration. This resource contains more than 1000 relevant documents from the ICC International Court of Arbitration publications on arbitration.



La référence Droit québécois

La référence Droit civil

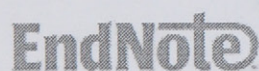
DCL & REJB are getting new look and new functionalities

Beginning from November the 15th, DCL and REJB are featuring new search screens, contextual help, history of judicial treatment for certain cases, enhanced search capabilities and improved navigation. Should you need some help in using the remodelled DCL & REJB, please do not hesitate to ask a reference librarian for assistance.

Facta

Facta available for some cases in Westlaw

If you would like to see a factum, click on the link "Facta" in the left-hand panel while you are viewing the full text of a case in Westlaw.



EndNote reminder/ warning

This is to remind you that the Red Book EndNote connection file that you can download from the McGill Library website is not an "official" connection file. Several years ago, it was created by a former Law School student, who was very kind to allow its use to his fellow students. This connection file was made according to the 6th (**NOT the 7th**) edition of the Red Book and was meant to answer the specific research needs of its author. **Please do not forget that the use of EndNote cannot replace knowledge of the Red Book.**

Question – Answer

From an anonymous student: "Why can't I bring food into the Law Library?"

We do not allow any kind of food in the Library because the food smells and leftovers attract all kinds of insects and rodents, and we would not like to have mice and cockroaches here.



Just for fun (not exactly on the topic but quite close): No Cookies in the Library

<http://www.youtube.com/watch?v=W3ZHPJT2Kp4&feature=fvw>

In this column, we would be delighted to answer all your library-services-related questions. Please send your questions to Svetlana Kochkina svetlana.kochkina@mcgill.ca, Liaison Librarian, Nahum Gelber Law Library.

HELIA
TAHERI

THE HEART-SHAPED RED BALLOON

The heart-shaped red balloon, she tore it out from her chest. For a moment, she froze, staring at the small red weight resting in the palm of her hand.

Love,

It was time for it to go away.

"Little bee", that's what he used to call her. She blew the nickname in the heart-shaped red balloon.

He used to embrace her with the lightness of his eyes. His eyes, his embrace, she blew them in the heart-shaped red balloon.

"Your arms, hold me in your arms, I need to suffocate in your arms", she thought and she blew the thought in the heart-shaped red balloon.

A butterfly net in her hands, she ran through her apartment and caught the musical piece that he had composed for her. Once trapped, she forced the notes into the heart-shaped red balloon.

Sorrow,

It was time for it to go away.

With a sigh, she blew the darkness of her grief in the heart-shaped red balloon.

Why did he leave? Which hurricane lifted him from the ground and carried him far from her? The questions, the nonexistent explanations, she blew them all in the heart-shaped red balloon.

A teardrop slid down her right cheek. She drew the heart-shaped red balloon closer to her face and let the tear fall into it.

Those sweet memories that gave her nightmares every single night, she blew them in the heart-shaped red balloon.

Rage,

It was time for it to go away.

"I got lost, I got lost in your arrogance,

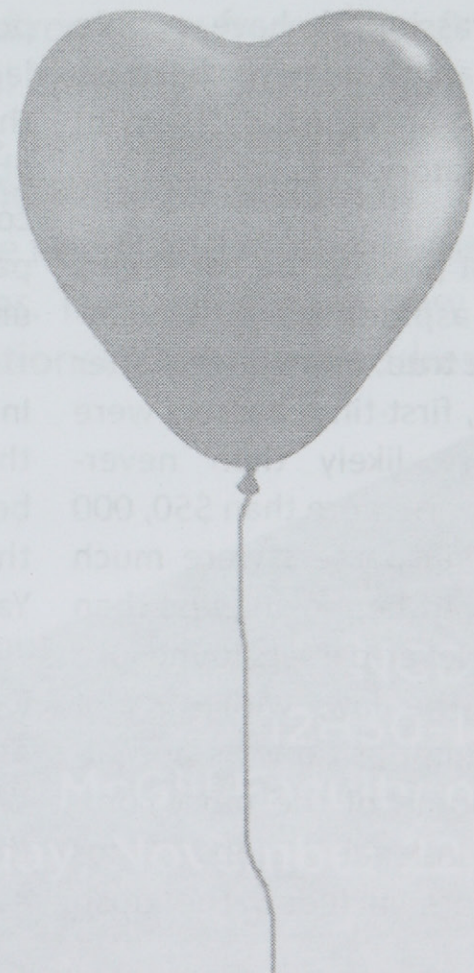
in your egoism, in your lack of ambition..." , she bellowed in the heart-shaped red balloon.

"I got drowned in your vanity,

your vanity that I admired once, how childish of me!", she sobbed

into the heart-shaped red balloon.

She removed one of her arteries, holding the balloon with her fingers. "It's time for you to go", she murmured. Carefully, she attached the balloon with the artery, opened the window and left the heart-shaped balloon to the hands of the breeze. The heart-shaped red balloon didn't want to go away; it begged to the breeze: "Please, help me get back, I belong to her, I should stay with her." And the breeze tried to help the heart-shaped red balloon, but the window was already closed. Determined to stay with her, the heart-shaped red balloon waited next to the window. It's still waiting...



(...continued from page 3)

—they are neither bar-passers nor bar-failers. Her focus, however, is on the never-passers, a population consisting of approximately 150,000 law school graduates in the U.S. who “bear the brunt of the consequences caused by the licensing requirement.”²

According to Yakowitz, law school graduates who never pass a bar exam have a very difficult ‘first term.’ Five to ten years out of law school, never-passers lag significantly behind lawyers on every measure—earnings, employment stability and Yakowitz even finds a relationship between never passing a bar and marriage and divorce rates.³ Never-passers used the following words to describe how they felt after law school: “First of all then there is like the whole depression okay this is reality and now what do I do with my life?”; “I had never failed anything, and it’s kind of embarrassing to have people know you aren’t a lawyer because you couldn’t pass the bar; “[I am in] career purgatory.”⁴

Indeed, not passing the bar seems like every aspiring lawyer’s nightmare come true: Immediately after law school, first-time passers were much more likely than never-passers to earn more than \$50,000 a year; never-passers were much more likely to be making less than \$20,000.⁵ Never-passers found jobs “hugging” the law, with 49% of them holding positions as non-attorneys.⁶ Some of the most common non-legal jobs for never-passers included the posi-

tions of managers and executives, accountants and clerical work. Never-passers earned approximately \$17,000 less than J.D.-holders of the same age and gender.⁷ Most surprisingly, however, was that in addition to falling well behind lawyers’ salaries, non-passers lagged behind the median college graduate’s salary—this despite the fact that the undergraduate GPAs of never-passers were generally higher than those of college graduates.

It does, however, get better. Non-passers spring back in their THIRTIES!!! Indeed, after an adjustment period, never-passers surpass the average college graduate and catch up to the 25th percentile lawyer.⁸ All of which begs the question: are never-passers worse off for having gone to law school? Yakowitz argues that with a “certain amount of hand waving” the opportunity costs can be imagined. For instance, since never-passers graduate from college with GPAs more than a tenth of a point higher than the average college graduate, one would expect that their starting salaries would be about 1% higher than the average college graduate. Instead, never-passers are earning 19% less in the under-thirty age cohort.

In short, Yakowitz’s findings suggest that a law degree only bestows a benefit to never-passers (if at all) in the latter half of their careers. Yakowitz herself argues that “[l]egal education may be a disservice for the significant group of students who never pass a bar exam.”⁹ While I personally take offence to that statement (I think that a legal education is inherently valuable

whether you practice law or not, whether you pass the bar or not), I can appreciate the take-away message of Yakowitz’s article: Just like the Barreau needs to be transparent and accountable to its students with respect to its evaluation procedures, law schools owe it to their prospective non-passing students to relay to them the possible consequences and life-adjustments that will be required in the event of not passing the bar.

As a final note, I just want to point out that Yakowitz herself admits that her study raises more questions than answers. Furthermore, she stresses that characteristics that contribute to bar failure—for instance, lack of intellectual rigor and insufficient motivation—can also be responsible for future career setbacks and troubles.¹⁰ If this is the case, I am led to believe that a Canadian version of the Yakowitz study would likely produce a population of never-passers outside of our community at Chancellor Day Hall. I also want to relay that my intention with this editorial is not to scare anyone out of writing the bar. Rather, my intention is merely to spark a dialogue in the Faculty—thinking about the bar makes me anxious; writing about failing the bar is strangely cathartic.

¹ Jane Yakowitz, “Marooned: An Empirical Investigation of Law School Graduates Who Fail the Bar Exam” (2010) *Journal of Legal Education* 60(1): 3 at 4.

² *Ibid.* at 12.

³ *Ibid.* at 4.

⁴ *Ibid.* at 30.

⁵ *Ibid.* at 29.

⁶ *Ibid.* at 31.

⁷ *Ibid.*

⁸ *Ibid.* at 4.

⁹ *Ibid.* at 40.

¹⁰ *Ibid.* at 4.



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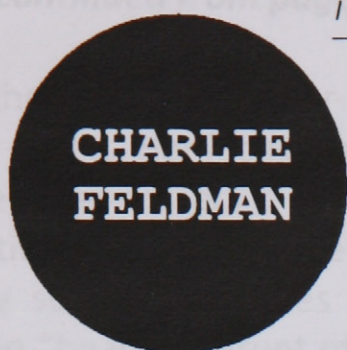
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Kindly RSVP to:
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LECTURE AND Q&A
www.aplam.mcgill.ca

NCDH 201
12H30-14H00
McGill Faculty of Law
Monday, November 22, 2010

Poster design by Chris Nguyen | cdhnguyen@gmail.com



DROIT À L'IMAGE

A fair bit of redaction in the prof quotes this week, sorry folks. If you hear something funny don't forget to send it in overheard: quid.charlie@gmail.com.

... Disons ... [Overheard@the fac]

Prof. [Redacted]: Is the video you're about to show 'How to have better sex?'

Prof. Klein: I'm just wondering how much of a Criminal Code ninja you are.

Prof. Bouclin: Trans-systemia is not a fruit salad - it's just not. It's a puree.

Prof. Moyse: Je ne sais pas au niveau de la note, mais du moins de l'expérience, vous parlerez des examens entre vous. Mes examens à moi sont sympas, du moins au niveau de l'ambiance.

Guest Speaker (not Dick Pound): You probably hear that lawyers are wind bags who suck money out of everyone and that the pursuit of justice is really a pipe dream. That's pretty much right.

Guest Speaker (perhaps Dick Pound): The real Olympic heroes are the lawyers ... The only remaining amateurs [at the Olympics] are the organizers.

Prof. Rabinovitch: Well, umm, if you look at the German Civil code you'll see –
Exchange - Scotland: - I will NOT be looking at the German Civil Code!

Prof. Moyse: Votre bagel flotte quand il meurt... il flotte... dans une scène allégorique, comme peint par les peintres de la Renaissance. Vous voyez, avec de la lumière, un halo...

Prof. Moyse: Jeudi c'est ravioli.

Prof. [Redacted]: Is this your pen? I've been putting my mouth all over it.

GRAD-L: I just hope you don't mind I've been putting my mouth all over it too....

Prof [Redacted]: As I often tell my children, I can't fire you!

Prof. Moyse: C'est joli le de cujus, celui qui est mort... mais c'est plus joli.

Prof. [Redacted]: Forget that the civil law ever existed; it will make your life much easier.

Prof. Moyse: Pas de patrimoine, pas d'impôt. Pas de bagel, pas d'impôt.

Prof. Gold: People don't just sit around enjoying the fact that they have subsurface rights.

Prof. [Redacted]: Il faut remercier Playboy beaucoup pour ayant avancé le droit de la propriété intellectuelle.

Prof. [Redacted]: Don't make me pronounce all those 'th'.

Prof. [Redacted]: On peut se poser la question: est-ce que le trou a du goût?

Prof. Klein: I hope you have fun with it – as much fun as you can have with a three hour exam.

Guest Speaker: We have the expression in French - I'm not sure what it is in English - L'accessoire suit le principal – the accessory follows the principal? Whatever.

Prof. [Redacted]: Should we compare women who get abortions to men who get a vasectomy?

[Student Overheards]

2L: Can I have a grilled cheese please?

Cafeteria employee: Do I have to?

3L: I'm just taking my retainer out in class – don't mind me.

2L: Honestly, it's a f**king joke! Is it that f**king hard for five f**king Profs to f**king come together to f**king realize they have all their f**king assignments f**king due the same f**king week?!?!
(2Ls – I give you two guesses.... you probably have it already)

[Redacted]L: Lifting the veil is a MINIMAL thing – that's MINIMAL impairment – just lift it.

2L: WELL! Isn't *that* the pot calling the kettle homosexual!

(In Legal Education during a discussion of banning student-teacher relationships...) First, we ALL have needs. Second, what's the point of having hot faculty if you can't do anything about it?

Exchange-Scotland: Why are some judges so well known, like Lord Denning?

Exchange-England: Isn't Lord Denning from Canada?
(discussion)

Exchange-Scotland: Well, I've met the most famous Scottish judge... so there!

Exchange-England: Well I've met Lord Bingham, so up yours!

(Note: this exchange is much better when read with accents...)

4L: (IN CLASS): I didn't read the case but I'm going to read off the summary to keep this class going.
(That take courage, so good on you, 4L, for taking one for the team!)

3L (At the Courthouse): Do they not have mirrors in prison? Some of these people really need them.

(Note: This was not me. I got in trouble for taking pictures, nothing further lol)

(Turning in Artwork at the SAO)

Me: Is this the oddest thing you've gotten?

SAO: No, we once got burnt cookies.

Me: As a gift!?

SAO: No, for that same class [Legal Education Seminar].

3L: I feel as though law school is beating me with the ugly stick!

1L: Is there a point to this?

?L: To what?

1L: Law school.

?L: Ahhhhhh I miss 1L.

... AND NOW A MOMENT FROM UNDERGRAD!

This moment comes from a lovely professor with whom I took Intro to French Cinema at UMCP. The course was taught in English, so all our movies had subtitles, prompting this comment from the Prof (she had a fairly strong French accent): "You know, a lot goes in to making subtitles. I used to work as a subtitler, and it was my goal to work on big movies. But, after school, I moved to LA where it was hard to find translation work at first, but I ended up getting a call from a studio that made ... adult movies. [Class laughs riotously]. You know, there are many more expressions for joy in English than in French! [Class is dying of laughter]. And, I realized, in that job, they told us in school to watch the movie from start to finish before working on the subtitles, but, I found out I didn't need to do that because these films all ended coming the same way." After we recovered from rolling on the floor laughing at her choice of words, someone turned around to ask if she'd bring in a copy of her finest work for our next lecture... it didn't happen. Instead, we watched *Les bronzés font du ski*, which I HIGHLY recommend :-)

Closing comment: Get thinking about Skit Nite. I keep coming up with ideas, but they're all terrible... unless you want to do a remake of Christina Aguilera's 'Genie in a Bottle' to become 'Snail in a Bottle' telling the story of *Donoghue v Stevenson* from the perspective of the snail. Those opening lines don't even have to be changed, given that the snail was decomposing: I feel like I've been locked up tight for a century of lonely nights, waiting for someone to release me!

**CHARLIE
FELDMAN**

DROIT À L'IMAGE

At Right:

At the recent Human Rights Working Group Coffeehouse, there was a candy-filled ball representing genocide and all sorts of bad things. Said one 4L of the blind-fold people attempting to smash it open "This is very much like the UN's response to genocide - a lot of gesturing but no real action, and for sure no real results." The Quid isn't sure how it feels about that...



At Left:

Prof. Klein with students leaving the Palais de justice. The Quid learned the hard way that picture inside the court house are frowned upon, even if you work for a VERY SERIOUS publication serving a legal community. I should have worn my press pass.... oh wait, we don't have press passes, but we ARE getting a label printer, so hopefully you're thinking what I'm thinking... watch out pressbox at the Bell Centre, I will be in you for the Backstreet Boys / New Kids on the Block Reunion Tour if it's the last thing I ever do... other than become the Judge Judy of Canada :-)



